

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
EDWARD TROY : ORDER OF REVOCATION
_____ : DOCKET NO: 460-12/97-179

At its meeting of December 11, 1997, the State Board of Examiners reviewed information received from the Office of Criminal History Review indicating that Edward Troy was convicted in 1995 on charges of possession of marijuana. Troy denied that he had been convicted of any crime on his application for certification. As a result of such conviction, Troy was disqualified from public service pursuant to N.J.S.A. 18A:6-7.1 *et seq.* Troy appealed the disqualification before the Commissioner of Education. The appeal was denied. Upon review of the above information, at that December meeting the State Board of Examiners voted to issue an Order to Show Cause to Respondent. Troy currently holds a County Substitute certificate.

The Order to Show Cause was mailed to Respondent by regular and certified mail on December 23, 1997. The Order provided that if Respondent desired to file an Answer to the Order, such Answer must be filed within twenty (20) days. Since Troy's appeal of the Commissioner's denial was pending before the State Board of Education, Troy's time to respond to the Order to Show Cause was extended. Thereafter, on April 15, 1998, the State Board of Examiners notified Troy that since the State Board of Education had affirmed the Commissioner's disqualification, Troy had 20 days to respond to the Order to Show Cause. The Board of Examiners wrote to Troy again on June 22, 1998, and gave him an additional 20 days to respond. Troy filed an Answer on July 15, 1998.

In his Answer, Troy admitted that he had been convicted of marijuana possession and had been disqualified from public school employment because of it. He denied that he had engaged in dishonest misrepresentation when he completed his certification application by denying he had been convicted of a crime. (Hearing Response, ¶2). Troy argued that he had relied on his attorney who had advised him that he would not have to disclose this information on any future job application. (Hearing Response, ¶2). Troy therefore claimed that while his statement was inaccurate, it was not dishonest. Troy also argued that although the Commissioner had disqualified him, that disqualification was mainly due to an insufficient lapse of time. (Hearing Response, ¶2). At the time of the submission of his Answer, three years had

elapsed since the incident. Troy therefore argued that he had demonstrated rehabilitation. (Hearing Response, ¶2). Finally, he argued that if a penalty had to be imposed, suspension was more appropriate in this matter. (Hearing Response, ¶3).

In addition to his Answer, Troy and his mother submitted letters, relating the circumstances of his plea to unlawful possession. Both letters indicated that Troy's attorney at the time, told them that if Troy were ever asked "Have you ever been arrested or convicted of a crime?" on a job application, he could answer "no" since the offense to which he had pled guilty was a violation and not a crime. (Letter from Carole Troy, dated July 9, 1998; Letter from Edward Troy, dated July 9, 1998). Troy also submitted a copy of the brief he had filed before the State Board of Education in conjunction with his disqualification case. That brief argued why Troy should be considered rehabilitated

Thereafter, pursuant to N.J.A.C. 6:11-3.6(a)1, on November 23, 1998, the Board of Examiners sent a hearing notice to Troy by regular and certified mail. The notice explained that since it appeared no material facts were in dispute regarding Troy's conviction, respondent was offered an opportunity to submit written arguments on the issue of whether the conduct addressed in the Order to Show Cause constituted conduct unbecoming a certificate holder. It also explained that upon review of the charges against him and the legal arguments tendered in his defense, the State Board of Examiners would determine if his disqualifying offense warranted action against his certificate. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any. Troy did not respond to the hearing Notice. On February 2, 1999, respondent was advised by certified and regular mail that he was being provided an additional ten days to file a response to the initial hearing notice. On February 23, 1999, Troy responded to the Hearing Notice asking that the Board of Examiners consider the materials previously submitted in response to the Order to Show Cause.

The threshold issue before the State Board of Examiners in this matter, therefore, is to determine whether Troy's conviction and subsequent disqualification for possession of marijuana, and his misrepresentation on his certification application constitute conduct unbecoming a certificate holder. At its meeting of April 15, 1999, the State Board of Examiners reviewed the charges and papers filed by respondent in response to the Order to Show Cause. After review of the response, the Board of Examiners determined that no material facts related to respondent's offense were in dispute since Troy admitted that

he had been convicted of the offense which disqualified him. The Board made no finding as to whether Troy's failure to report his conviction on his certification application was purposeful.

The issue now before the State Board of Examiners in this matter, therefore, is to determine whether Respondent's disqualification, which was predicated on the same offense as was set forth in the Order to Show Cause, represents just cause to act against Respondent's certificate pursuant to N.J.A.C. 6:11-3.6(a)1. We find that it does.

In enacting the Criminal History Review statute, N.J.S.A. 6-7.1 et seq. in 1986, the Legislature sought to protect public school pupils from contact with individuals whom it deemed to be a danger to them. In 1989 the Legislature specifically amended the statute to include all convictions concerning controlled dangerous substances as disqualifying offenses. See, N.J.S.A. 18A:6-7.1b. This amendment was a clear recognition on the part of the Legislature that individuals with such drug convictions should not be permitted to be in contact with school-aged children. The consistent and long-standing policy of this State is to eliminate the use of illegal drugs. See, In the Matter of the Tenure Hearing of David Earl Humphreys, 1978 S.L.D. 689. To that end, the State and the schools herein have engaged in extensive educational efforts to warn the citizenry of the perils of illicit drugs. See, In the Matter of the Certificate of Barbara Corwick, OAL Dkt. No. EDE 3562-87, State Board of Examiners decision (March 24, 1988). Those who violate this deep-rooted policy, *whether by the use of drugs or their manufacture and distribution*, endanger the public welfare; they cannot be entrusted with the responsibility of caring for school aged pupils. Accordingly, the State Board of Examiners finds that Troy's disqualification from service in the public schools of this State because of his conviction for possession of marijuana provides just cause to take action against his certificate.

That strong policy statement on the part of the Legislature set forth in N.J.S.A. 18A:6-7.1b also offers guidance to the State Board of Examiners as to the appropriate sanction in this matter. An individual whose offense bars them from service in public schools should not be permitted to retain the license that authorizes such service. Nor should a person who has been disqualified from teaching in a public school be permitted to continue to hold himself out as a teacher. Because the Legislature considers Troy's offense disqualifying, the State Board of Examiners in this matter believes that the appropriate sanction for his disqualification is the revocation of his certificate to teach.

Moreover, notwithstanding Troy's contentions of rehabilitation, this is not the proper context for such considerations. The purpose of this proceeding is "to permit the individual certificate holder to demonstrate circumstances or facts to counter the charges set forth in the Order to Show Cause, not to afford an opportunity to show rehabilitation." See, In the Matter of the Revocation of the Teaching Certificate of Gloria Jackson by the State Board of Examiners, 96 N.J.A.R. 2D (EDE) 1, 16 aff'd App. Div. Dkt. No. A-1246-96T5 (September 9, 1997) citing In the Matter of the Revocation of the Teaching Certificate of James Noll, State Bd. of Examiners decision (February 7, 1990). Thus, the fact that three years have passed since Troy's conviction has no bearing on the outcome of this matter.

Accordingly, it is therefore ORDERED that Edward Troy's County Substitute certificate be revoked on this 15th day of April, 1999. It is further ORDERED that Edward Troy return his certificate to the Secretary of the State Board of Examiners, Office of Licensing, CN 500, Trenton, NJ 08625-0500 within fifteen (15) days of receipt of this decision.

Secretary
State Board of Examiners

Date of Mailing: May 4, 1999

Appeals may be made to the State Board of Education pursuant to the provisions of N.J.S.A. 18A:6-28.

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